

SENATE BILL 702

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A2

2003 Regular Session
(3lr2560)

ENROLLED BILL

-- Education, Health, and Environmental Affairs/Economic Matters --

Introduced by **Senator Astle**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **City of Annapolis - Alcoholic Beverages Licensing - Enforcement**

3 FOR the purpose of ~~specifying that if an alcoholic beverages licensee or employee of~~
4 ~~the licensee in the City of Annapolis is found not guilty or placed on probation~~
5 ~~before judgment for a certain alleged violation, the placement does not bar the~~
6 ~~Annapolis Alcoholic Beverage Control Board from taking certain action;~~
7 authorizing the City of Annapolis to provide that ~~a violation~~ *violations* of a
8 certain ~~provision~~ *provisions* of law ~~is a~~ *are* municipal ~~infraction~~ *infractions*;
9 altering the penalty for the violation of certain provisions *of law*; authorizing the
10 Annapolis Police Department to serve certain summonses; ~~authorizing the~~
11 ~~Annapolis Board of License Commissioners to impose a certain fine, license~~
12 ~~suspension, or both under certain conditions;~~ and generally relating to alcoholic
13 beverages in the City of Annapolis.

14 BY repealing and reenacting, without amendments,
15 Article 2B - Alcoholic Beverages
16 Section 12-108(a)

1 Annotated Code of Maryland
2 (2001 Replacement Volume and 2002 Supplement)

3 BY adding to
4 Article 2B - Alcoholic Beverages
5 Section 12-108(e-1)
6 Annotated Code of Maryland
7 (2001 Replacement Volume and 2002 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article 2B - Alcoholic Beverages
10 Section 12-202(b), and 16-410(b)(2), ~~and 16-507(e)(2)~~
11 Annotated Code of Maryland
12 (2001 Replacement Volume and 2002 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article 2B - Alcoholic Beverages**

16 12-108.

17 (a) (1) A licensee licensed under this article, or any employee of the licensee,
18 may not sell or furnish any alcoholic beverages at any time to a person under 21 years
19 of age:

20 (i) For the underage person's own use or for the use of any other
21 person; or

22 (ii) To any person who, at the time of the sale, or delivery, is visibly
23 under the influence of any alcoholic beverage.

24 (2) Any licensee or any employee of the licensee who is charged with a
25 violation of this subsection shall receive a summons to appear in court on a certain
26 day to answer the charges placed against that person. The person charged may not be
27 required to post bail bond pending trial in any court of this State.

28 (3) (i) A licensee or employee of the licensee violating any of the
29 provisions of this subsection is guilty of a misdemeanor and, upon conviction, suffers
30 the penalties provided by § 16-503 of this article.

31 (ii) A licensee or employee of the licensee who is charged with
32 selling or furnishing any alcoholic beverages to a person under 21 years of age may
33 not be found guilty of a violation of this subsection, if the person establishes to the
34 satisfaction of the jury or the court sitting as a jury that the person used due caution
35 to establish that the person under 21 years of age was not, in fact, a person under 21
36 years of age if a nonresident of the State.

1 (iii) If the person is a resident of the State of Maryland, the licensee
 2 or employee of the licensee may accept, as proof of a person's age, the display of the
 3 person's driver's license or identification card as provided for in the Maryland Vehicle
 4 Law.

5 (iv) Except as otherwise provided in this section, if any licensee or
 6 employee of the licensee is found not guilty, or placed on probation without a verdict,
 7 of any alleged violation of this subsection, this finding operates as a complete bar to
 8 any proceeding by any alcoholic beverage law enforcement or licensing authorities
 9 against the licensee on account of the alleged violation.

10 (E-1) (1) THIS SUBSECTION APPLIES IN THE CITY OF ANNAPOLIS
 11 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION.

12 ~~(2) IF A LICENSEE OR EMPLOYEE OF A LICENSEE IS FOUND NOT GUILTY~~
 13 ~~OR PLACED ON PROBATION BEFORE JUDGMENT FOR AN ALLEGED VIOLATION OF~~
 14 ~~SUBSECTION (A) OF THIS SECTION, THE PLACEMENT DOES NOT BAR THE ALCOHOLIC~~
 15 ~~BEVERAGE CONTROL BOARD FROM PROCEEDING ADMINISTRATIVELY AGAINST THE~~
 16 ~~LICENSEE FOR THE ALLEGED VIOLATION.~~

17 ~~(2)~~ (2) THE CITY COUNCIL MAY PROVIDE BY ORDINANCE THAT A
 18 VIOLATION OF SUBSECTION (A)(3)(I) OF THIS SECTION IS A MUNICIPAL INFRACTION.

19 12-202.

20 (b) (1) It is unlawful for any licensee or other person to sell spirituous,
 21 fermented or intoxicating liquor or to sell, give directly or indirectly, dispose of, barter,
 22 furnish, hand over or deliver, within the corporate limits of the City of Annapolis, or
 23 within 5 miles of the City, any alcoholic beverages other than beer and light wine in
 24 any quantity whatever to any person under the age of 21 years for use by the
 25 underage person or for the use of any other person, either with or without the written
 26 order or consent of the parent or guardian of the person.

27 (2) Any person violating the provisions of this subsection is guilty of A
 28 MUNICIPAL INFRACTION AS PROVIDED IN THE CODE OF THE CITY OF ANNAPOLIS ~~OR~~
 29 ~~a misdemeanor~~, and upon conviction shall be fined not more than \$100, or be
 30 imprisoned in jail for not more than 60 days, or be both fined and imprisoned in the
 31 discretion of the court].

32 (3) If any underage person wilfully represents that he is of full age and
 33 obtains any spirituous liquors, and the person selling the spirituous liquor is able to
 34 prove at the trial such misrepresentation, and that due caution was used in
 35 ascertaining the age of the underage person before giving the alcohol to the underage
 36 person and that in the exercise of reasonable caution he was deceived by the use of
 37 documentary evidence and that for this reason he was unable to ascertain that the
 38 underage person was in fact an underage person, then the person selling to the
 39 underage person shall be acquitted of the charge.

1 16-410.

2 (b) (2) (i) All summonses shall be served by the sheriff, except that:

3 1. IN THE CITY OF ANNAPOLIS, SUMMONSES MAY ALSO BE
4 SERVED BY THE ANNAPOLIS POLICE DEPARTMENT;

5 2. In Anne Arundel County, summonses may also be served
6 by inspectors employed by the Board and by the Anne Arundel County Police
7 Department; and

8 [2.] 3. In Baltimore City, summonses may also be served by
9 inspectors employed by the Board of Liquor License Commissioners for Baltimore
10 City.

11 (ii) If any witness summoned refuses or neglects to attend, or if
12 attending, refuses to testify, the official issuing the summons shall report the facts to
13 the circuit court for the county. The court shall proceed by attachment against the
14 witness in all respects as if the witness summoned to appear in the court in a case
15 pending before it had neglected or refused to do so.

16 ~~16-507.~~

17 (e) (2) ~~In the City of Annapolis, the Board of License Commissioners may~~
18 ~~impose a fine of not more than \$1,000 [in lieu of suspension of] OR a license~~
19 ~~SUSPENSION OR BOTH for any violation that is cause for suspension under the~~
20 ~~alcoholic beverage laws of the city.~~

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2003.